

H.L.C.

107TH CONGRESS }
1st Session } HOUSE OF REPRESENTATIVES { REPORT
107-312 Part I

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT
OF 2001

DECEMBER 4, 2001.—Ordered to be printed

Mr. HYDE, from the Committee on International Relations,
submitted the following

R E P O R T

[To accompany S. 494]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (S. 494) to provide for a transition to democracy and to promote economic recovery in Zimbabwe, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Zimbabwe Democracy and Economic Recovery Act of 2001”.

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

SEC. 3. DEFINITIONS.

In this Act:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term “international financial institutions” means the multilateral development banks and the International Monetary Fund.

(2) MULTILATERAL DEVELOPMENT BANKS.—The term “multilateral development banks” means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

(a) FINDINGS.—Congress makes the following findings:

(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of Zimbabwe’s economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

(2) In September 1999 the IMF suspended its support under a “Stand By Arrangement”, approved the previous month, for economic adjustment and reform in Zimbabwe.

(3) In October 1999, the International Development Association (in this section referred to as the “IDA”) suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe’s economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe’s democratic institutions.

(c) **MULTILATERAL FINANCING RESTRICTION.**—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution.

(d) **PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.**—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

(1) **RESTORATION OF THE RULE OF LAW.**—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

(2) **ELECTION OR PRE-ELECTION CONDITIONS.**—Either of the following two conditions is satisfied:

(A) **PRESIDENTIAL ELECTION.**—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

(B) **PRE-ELECTION CONDITIONS.**—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

(3) **COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.**—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

(4) **FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.**—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

(5) **MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT.**—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

(e) **WAIVER.**—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

(a) **IN GENERAL.**—The President is authorized to provide assistance under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to—

(1) support an independent and free press and electronic media in Zimbabwe;

(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

(3) provide for democracy and governance programs in Zimbabwe.

(b) **FUNDING.**—Of the funds authorized to be appropriated to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2002—

(1) \$20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

(2) \$6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

(c) **SUPERSEDES OTHER LAWS.**—The authority in this section supersedes any other provision of law.

SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

It is the sense of Congress that the President should begin immediate consultation with the governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—

- (1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;
- (2) identify assets of those individuals held outside Zimbabwe;
- (3) implement travel and economic sanctions against those individuals and their associates and families; and
- (4) provide for the eventual removal or amendment of those sanctions.

PURPOSE AND SUMMARY

The bill states that it is U.S. policy to support the Zimbabwean people in their current struggles to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law. It supports democratic transition and economic recovery through provisions of debt relief upon Presidential certification that the following conditions have been fulfilled: support for democratic institutions, free press and independent media, and the rule of law. It authorizes funding for equitable land reform and assistance for democracy and governance. The bill also contains a sense of Congress that the President should consult with the European Union, Canada, and other appropriate foreign governments to take action against individuals responsible for politically motivated violence and the breakdown of the rule of law in Zimbabwe.

BACKGROUND AND NEED FOR THE LEGISLATION

After winning majority rule in 1980, Zimbabwe (formerly Rhodesia) showed strong potential of becoming a model of African development. It expanded a robust agricultural economy and it enjoyed a well-respected parliament and independent judiciary. The government of President Robert Mugabe extended social services to the previously disenfranchised majority, helping to give the country one of Africa's most highly educated populations. Zimbabwe was a source of stability in a largely troubled southern Africa region.

Unfortunately, today's Zimbabwe is a very different country. For several years now, its government has become increasingly autocratic, systematically repressing peaceful political opposition. It has sanctioned wide scale human rights violations, which have been condemned by the United States, as well as the European Union and various human rights organizations. The Zimbabwe Lawyers for Human Rights group has observed that it is, "outraged by the continued brutality, lack of respect for fundamental human rights and political partisanship of the Zimbabwe Republic Police." For Zimbabweans, it is a sad irony that the Mugabe government represses political opponents with the same Law and Order Maintenance Act which Ian Smith's repressive Rhodesian government pioneered to prevent majority rule. The Committee shares the concern of many observers that Zimbabwe stands on the brink of a violent political implosion.

Zimbabwe also has been in deep economic decline. Because of overall economic mismanagement and a government-driven invasion of farmland, a once productive nation now faces accelerating

poverty and widespread starvation. Foreign investment has plummeted due to a lack of investor confidence in the government's commitment to preserving the rule of law. Because of the government's economic policies, Zimbabwe is among the minority of African countries ineligible for the African Growth and Opportunity Act (AGOA), signed into law in 2000. The Committee endorses this Administration designation of ineligibility.

The Committee has closely monitored events in Zimbabwe. In the second session of the 106th Congress, the Subcommittee on Africa held a hearing titled, "Zimbabwe: Democracy on the Line." At that hearing, Members heard of government-sponsored human rights abuses. The Subcommittee Chairman was scheduled to lead an International Republican Institute election monitoring team to the 2000 parliamentary election (widely judged not to be "free and fair") until the government denied visas. Throughout the current Congress, Committee staff briefings have been held with Administration officials, Zimbabwe government officials, Zimbabwe opposition officials, and human rights organizations to better understand developments in this important southern African country. The Committee intends to continue this close monitoring.

According to the Zimbabwean Constitution, presidential elections must be held by the end of March 2002. After losing ground at the polls in a parliamentary byelection, President Mugabe's government has acted increasingly violent, suppressing the independent press and political opposition. His government has rejected international efforts to address land reform in Zimbabwe, the most recent being the British-led Abuja Agreement made in September. The Mugabe government has breached this accord, which should have ended all land takeovers, by subsequently sanctioning farm invasions and the blatant disregard for the rule of law. Adding to the suffering of the Zimbabwean people is the rapid spread of HIV/AIDS. Zimbabwe is one of Africa's most heavily impacted countries. The Committee strongly supports U.S. HIV/AIDS programming in Zimbabwe.

The regional implications of Zimbabwe's looming humanitarian disaster are grave. Neighboring nations could lose stability due to a mass exodus of Zimbabweans, which is possible with a continued economic and political deterioration. South Africa in particular faces this specter.

The Zimbabwe Democracy and Economic Recovery Act of 2001 is a recognition that the U.S. has a significant interest in seeing that Zimbabwe reverse its decline and begin to reach its considerable potential. It establishes a policy framework of incentives for the government of Zimbabwe to proceed with free and fair elections, respect the rule of law (including as it relates land reform) and take other policy actions. If the government of Zimbabwe moves in this direction, the legislation encourages the U.S. Treasury Department to work through the international financial institutions in order to provide debt relief and other economic development aid to Zimbabwe. But absent a Zimbabwe government commitment to democracy and the rule of law, the legislation prohibits the U.S. from supporting any such assistance, which is the international financial institution's current position.

S. 494 also authorizes U.S. bilateral aid for land reform and governance programs. The Committee believes, however, that land reform aid under current conditions would be counterproductive. The Committee strongly supports democracy and governance programs and programs supporting an independent press in Zimbabwe, whose funding is authorized by this legislation. The Committee notes that the Mugabe government enjoys a virtual monopoly on radio broadcasts, which should be broken.

President Mugabe is doing all he can to see that the world is not watching his government's actions. *Washington Post* and *New York Times* reporters have been denied visas. Foreign journalists are routinely harassed and intimidated. Zimbabwean journalists, though, have borne the brunt of government attack. Newspaper offices have been bombed, with likely government complicity. Against this, the Committee notes profiles in courage. For example, Geoff Nyarota, editor of the *Daily News*, recently won the New York-based Committee to Protect Journalists Press Freedom Award for his courageous work uncovering government corruption. There is reason to believe that passage of this legislation would provide a considerable morale boost to those Zimbabweans resisting government persecution.

Given the fact that there are years of credible reporting of Zimbabwe government corruption, this legislation encourages the Administration to begin the process of imposing personal sanctions (travel ban and asset freeze) on those individuals responsible for the breakdown of the rule of law in Zimbabwe. This should include consultation with others nations and international organizations. The European Union has already taken steps to impose such "smart sanctions." The Committee believes that this diplomatic tool could be of considerable impact in promoting democracy and the rule of law in Zimbabwe. Zimbabweans value frequent travels abroad and the ability to send their children to school overseas.

In the run up to presidential elections, Zimbabwe is suffering increasing political violence. The political opposition deserves great credit for remaining peaceful in the face of government violence. For years now, its members have been beaten, tortured, and killed. Their discipline will be further tested in the coming months as the Mugabe regime provokes unrest, possibly to invoke a state of emergency to legitimize its canceling elections. Ominously, President Mugabe has begun referring to the political opposition as "terrorists." The Committee hopes that the political opposition remains steadfastly committed to non-violence. It also encourages the Administration to prepare a policy and security response should a state of emergency be declared.

The Committee notes that the current crisis in Zimbabwe is in many ways more solvable than other crisis in Africa. More so than other African countries, Zimbabwe has the building blocks of a healthy democracy and economy. The Zimbabwean people are educated and skilled. There is a vibrant and peaceful opposition. The possibility of AGOA adds to Zimbabwe's considerable economic potential. The Committee expresses its desire to support Zimbabweans who are struggling against tyranny so that their country can begin to reach its potential. S. 494 helps lay a foundation for the U.S. to contribute to that future.

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HEARINGS

The Committee's Subcommittee on Africa held a hearing on the crisis titled Zimbabwe: Democracy on the Line, June 13, 2000.

COMMITTEE CONSIDERATION

On November 28, 2001, the Committee met in open session and ordered favorably reported the bill S. 494 with amendment by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

There were no recorded votes of the Committee.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, S. 494, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 30, 2001.

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill, who can be reached at 226-2840.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable Tom Lantos
Ranking Democratic Member

S. 494—Zimbabwe Democracy and Economic Recovery Act of 2001.

SUMMARY

S. 494 would support a transition to democracy and promote economic recovery in Zimbabwe through a set of incentives and sanctions. The act would require the United States to oppose lending by international financial institutions to or debt relief for Zimbabwe until the President certifies to the Congress that certain conditions are satisfied. It would, however, authorize additional funds for programs to reform landholding and to promote democracy and good governance in Zimbabwe. Assuming the appropriation of the authorized amounts, CBO estimates that implementing the act would cost \$23 million over the 2002–2006 period. Because S. 494 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

S. 494 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 494 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

BASIS OF ESTIMATE

S. 494 would earmark \$20 million for land reform and \$6 million for programs to promote democracy and good governance in Zimbabwe from funds otherwise authorized to be appropriated in 2002 for development assistance and the economic support fund. No funds are currently authorized for 2002. CBO assumes that the specified amounts would be appropriated before the end of the session, and that outlays would follow historical spending patterns.

By fiscal year, in millions of dollars

	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Zimbabwe						
Budget Authority ¹	16	0	0	0	0	0
Estimated Outlays	22	19	10	5	3	2
Proposed Changes						
Authorization Level	0	26	0	0	0	0
Estimated Outlays	0	2	8	7	4	2
Spending Under S. 494 for Zimbabwe						
Authorization Level ¹	16	26	0	0	0	0
Estimated Outlays	22	21	18	12	7	4

¹ The 2001 level is the amount appropriated for that year.

PAY-AS-YOU-GO CONSIDERATIONS:

None.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 494 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

PREVIOUS CBO ESTIMATE

On July 16, 2001, CBO transmitted a cost estimate for S. 494 as ordered reported by the Senate Committee on Foreign Relations on July 12, 2001. The two cost estimates are identical.

ESTIMATE PREPARED BY:

Federal Costs: Joseph C. Whitehill (226–2840)
Impact on State, Local, and Tribal Governments: Elyse Goldman
(225–3220)
Impact on the Private Sector: Lauren Marks (226–2940)

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis

PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of this legislation are consistent with the Government Performance and Results Act. Plan submitted to Congress by the Department of State and the Agency for International Development for their fiscal year 2002 programs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Sec. 1. Title. Zimbabwe Democracy and Economic Recovery Act of 2001.

Sec. 2. Statement of Policy. Declares it is U.S. policy to support the Zimbabwean people in their struggles to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

Sec. 3. Definitions. International financial institutions refers to multilateral development banks and the International Monetary Fund.

Sec. 4. Support for Democratic Transition and Economic Recovery. Encourages the cancellation or reduction of indebtedness owed to the United States and certain international financial institutions by, or the extension of loans, credit, or guarantees by such institutions to, the government of Zimbabwe upon the President's certification to the appropriate congressional committees that the government of Zimbabwe has: (1) restored the rule of law; (2) met certain election or pre-election conditions; (3) demonstrated a commitment to an equitable, legal, and transparent land reform program that is consistent with agreements reached at the 1998 International Donors' Conference on Land Reform and Resettlement in Zimbabwe.

(4) made a good faith effort to end the war in the Democratic Republic of Congo; and (5) subordinated the Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces to the elected civilian government. Restricts multilateral assistance to Zimbabwe until such certification is made. Authorizes the President to waive such requirements if it is in the national interest of the United States.

Sec. 5 . Support for Democratic Institutions, the Free Press and Independent Media, and The Rule of Law. Authorizes the President to provide certain foreign assistance funds to Zimbabwe to support the establishment of democratic institutions, free press and independent media, and the rule of law. Authorizes appropriations for FY 2002.

Sec. 6. Sense of Congress on the Actions to Be Taken Against Individuals Responsible for Violence and the Breakdown of The Rule of Law in Zimbabwe. Urges the President to consult immediately with the governments of European Union member states, Canada, and other appropriate foreign countries on specified actions to be taken against individuals responsible for violence and the breakdown of the rule of law in Zimbabwe.

NEW ADVISORY COMMITTEES

S. 494 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

S. 494 does not apply to the legislative branch.

FEDERAL MANDATES

S. 494 provides no Federal mandates.

